



## **CITY OF DANBURY**

155 DEER HILL AVENUE  
DANBURY, CONNECTICUT 06810

**PLANNING COMMISSION**  
**www.danbury-ct.gov**

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### **MINUTES** **APRIL 21, 2021**

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The web-based meeting hosted on Zoom was called to order by Chairman Arnold Finaldi at 7:30 PM

Present were Robert Chiocchio, Helen Hoffstaetter, Perry Salvagne, Joel Urice, and Chairman Arnold Finaldi. Also present were Deputy Planning Director Jennifer Emminger and Planning Director Sharon Calitro.

Absent were Alternates Kevin Haas and Gary Renz.

Mr. Urice made a motion to accept the April 7, 2021 minutes. Mrs., Hoffstaetter seconded the motion and it was passed unanimously by voice vote with five ayes.

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#### **PUBLIC HEARING:**

Real Time Capital Properties LLC – Application for Special Exception/Revised Site Plan for expansion of existing self-storage facility (“Safe & Sound Storage”) in the IL-40 Zone – 18 Great Pasture Rd. (L15008-009) – SE #769.

Chairman Finaldi read the legal notice regarding this application. Speaking in favor of this was Michael Mazzucco PE. He said that they received approval from the Environmental Impact Commission in 2019 and had been before this Commission also in 2019. He added that they had to withdraw that application as the property owner was cited by the Zoning Enforcement Officer for violations due to illegal storage of materials, equipment and vehicles in the private roadway that runs along the Southern side of the site. He explained that this private roadway is accessed through this site’s driveway and is used as an emergency access to a condominium complex located on Shelter Rock Road. It has taken this long to get this area cleaned up and to get the Zoning Officer to sign off on the site. He said they are requesting that the record of the previous application be incorporated into this one. He continued by explaining that the applicant had purchased additional land located on the Northern side of the site and wants to expand the business by putting additions on the existing buildings in that area. They also are proposing to add a small office building in this same area. He said the proposed site improvements include building a five space parking lot, redesign of the internal roadways, storm drainage improvements, construction of a sidewalk along the property frontage, and front yard landscaping. The site is served by an existing septic system and

City water. There is adequate onsite parking and access to the site will remain the same. He said since the rear of this property is located within the floodplain, a floodplain permit was approved in 2007, and as part of this application, they are requesting the floodplain permit be revised. He added that is a separate review process and staff will present a report to them once it is completed. Mr. Urice asked if all of the zoning violation issues had been cleared up. Mr. Mazzucco said Mrs. Emminger had required him to provide written confirmation from the Zoning Officer that the site was in compliance before he was allowed to submit this application.

Chairman Finaldi asked if there was anyone to speak in opposition to this application and there was no one.

Chairman Finaldi asked Mrs. Emminger if all of the responses had been received. Mrs. Emminger said there are some outstanding issues from Construction Services and the Engineering Department, but nothing that would require changing the site plan. The Commission discussed this and decided to keep the hearing open.

Mr. Salvagne made a motion to continue the public hearing. Mr. Urice seconded the motion and it was passed unanimously by roll call vote with five ayes (from Mr. Chiochio, Mrs. Hoffstaetter, Mr. Salvagne, Mr. Urice, and Chairman Finaldi)

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#### CONTINUATIONS OF PUBLIC HEARING:

Newtown Road LLC/Maria & Manuel Andre, Manuel Neves Gouveia Marques, & Antonio Mendes Gouveia Marques – Application for Special Exception/Site Plan Approval for Child Day Care Center in the CG-20/RA-8 Zone – 36 Newtown Road, 40 & 42 Newtown Road, Whitney Avenue (K13188, K13190 & K12255, & K12254) – SE 780. **THIS APPLICATION IS TABLED - THERE WILL BE NO ACTION TAKEN OR DISCUSSION ON IT.**

Mr. Urice made a motion to table and continue this hearing. Mrs. Hoffstaetter seconded the motion and it was passed unanimously by voice vote with five ayes.

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Nejame Plaza LLC – Application for Special Exception/Revised Site Plan Approval to permit Storage of Concrete Aggregates or Manufacture of Concrete & Concrete Products, Storage of Bituminous Product, Storage or Sale of Building Materials, & Storage of Construction Equipment (Nejame Pool Industrial Site) in the IG-80 Zone - 44 Payne Road (N12004) - SE #776. **THIS APPLICATION HAS BEEN TABLED AND CONTINUED UNTIL THE NEXT MEETING AT THE REQUEST OF THE APPLICANT'S ATTORNEY:**

Mr. Urice made a motion to table and continue this hearing. Mr. Chiochio seconded the motion and it was passed unanimously by voice vote with five ayes.

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Global Partners LP/Four Star Realty LLC- Application for Revised Special Exception/Revised Site Plan for Automobile Service Station ("Global Gas Station") in the CG-20 Zone - 108 Newtown Road & 5 Mountainview Terrace (M10029 & M10028) - SE #720. **THIS APPLICATION HAS BEEN TABLED AND CONTINUED UNTIL THE NEXT MEETING AT THE REQUEST OF THE APPLICANT'S ATTORNEY:**

Mr. Urice made a motion to table and continue this hearing. Mr. Chiocchio seconded the motion and it was passed unanimously by voice vote with five ayes.

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REFERRALS:

8-3a Referral - Petition of SC Ridge Owner LLC to Amend Sections 4.H.2.b.(2)(a) & 4.H.2.b.(3)(b) of the Zoning Regulations.(Amend PND Zone.) Zoning Commission public hearing scheduled for May 11, 2021.

Chairman Finaldi said all of the Commission members were provided with a copy of this petition and the Planning Department staff report dated April 15, 2021. Mrs. Calitro said the petition states that the proposed amendments are intended to provide flexibility in the adaptive reuse or retrofitting of large buildings in a PND and to allow a secondary school as a community facility use as part of a mixed-use development in the PND Zone. She said the letter from Attorney Beecher (included with the petition) outlines the proposed changes as follows: (1) to increase the non residential floor area ratio (FAR) for a retrofit project from 75% to 85%; (2) to allow a reduction in the required minimum number of residential units from 250 to 175 to accommodate adding a public school to the retrofitted building; (3) to allow secondary schools to be included as community facilities; and (4) to allow the floor area of a public school owned and operated by the City to be excluded from the calculation of maximum non residential floor area. She then referred to the staff report to explain how each of these would affect the proposed development. The increase in maximum allowable non-residential square footage is proposed to compensate for interior space that currently counts towards the non-residential maximum but is not leasable space. Reducing the required minimum number of dwelling units compensates for the loss of space within a retrofit structure for the required mix of uses if a City school is constructed in the building. If a school other than a City of Danbury school is proposed, the required number of residential units would remain at 250. Kindergarten and secondary schools are currently permitted uses in the PND; this amendment proposes to add secondary schools also as a permitted use. She added that this came about due to a collaborative effort to establish a City-owned school for grades 6-12 in three pods that were originally slated for dwelling units. The exclusion of the floor area of a kindergarten, elementary or secondary school from the maximum non-residential square footage would only be permitted if the school is owned and operated by the City of Danbury. The exclusion is provided only for public schools because a private school would not result in public benefit to the community. She said with regard to compliance

with the Plan of Conservation & Development (POCD), these amendments could be considered consistent with Vision Statement #3, which states that development on the west side of the City should be creatively designed and including a public school within this development meets that goal. She said this also complies with the POCD because utilizing a portion of an existing building as a public school is an improved design for the renovated structure and will ensure that the necessary school facilities are provided. Lastly she said that because this is an amendment that would apply to any site designated as a PND zone, they do not need to comply with the Land Development Plan in the POCD.

Mr. Urice made a motion to give this positive recommendation because the proposed amendments are (1) consistent with the POCD, (2) they meet the purpose and intent of the PND Zone, and (3) they will not negatively impact the health, safety and welfare of the general public. Mr. Chiocchio seconded the motion and it was passed unanimously by roll call vote with five ayes (from Mr. Chiocchio, Mrs., Hoffstaetter, Mr. Salvagne, Mr. Urice and Chairman Finaldi)

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8-3a Referral - Petition of SC Ridge Owner LLC to Amend the Master Plan for The Summit (approved June 23, 2020). Public hearing scheduled for May 11, 2021.

Chairman Finaldi said all of the Commission members were provided with a copy of this petition and the Planning Department staff report dated April 15, 2021. Mrs. Calitro explained that the proposed amendments to the Master Plan include a request to allow the full 75% of the non-residential square footage on site under the retrofit alternative and to set minimum and maximum square footage for the non-residential uses in order to provide flexibility in leasing space within the existing building. She said the letter from Attorney Beecher (included with the petition) states that under the existing regulation, they can have up to 950,390 sq.ft. of non residential use on the site. The approved Master Plan proposed 942,513 sq.ft., but they have since found they need the difference (7,877 sq.ft.) for a specific tenant, so they are asking to amend the Master Plan to increase the non residential square footage to the maximum amount permitted by the Regulations. She said the second part of the amendment would allow flexibility under the approved Master Plan for increases or decreases in tenant spaces within the retrofit building. She added that since the PND is a mixed use zone, the Regulations do not include square footage limitations for the non residential uses. She also said this is not an unreasonable request because tenant space needs are always changing. She said City staff would be responsible for ensuring the mix of non residential uses is maintained as that is how other multi-tenant buildings City are handled. The approved 2020 Master Plan was deemed in compliance with the POCD and these amendments will not change that.

Mr. Urice made a motion to give this positive recommendation for the following reasons: (1) The approved 2020 Master Plan was deemed in compliance with the POCD and these amendments will not change that; (2) the proposed amendments are consistent with the purpose for which the site was rezoned to PND; (3) they will provide flexibility while

maintaining the mixed use development; and (4) they do not alter the Master Plan as approved in 2020. Chairman Finaldi said this building has had an interesting evolution since its construction in 1982 and creative is the operative word in the currently proposed reuse of it. Mr. Salvagne seconded the motion and it was passed unanimously by roll call vote with five ayes (from Mr. Chiocchio, Mrs., Hoffstaetter, Mr. Salvagne, Mr. Urice and Chairman Finaldi)

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Zoning Board of Appeals Referral - ZBA Application #21-09: 3 Lake Avenue Extension LLC, 3 Lake Ave. Ext., (G15005), CA-80 Zone, Use Variance Sec. 5.B.2.a., Allow use of the property as “shelter for homeless with conditions.” ZBA public hearing scheduled for May 13, 2021

Chairman Finaldi said everyone should have received a copy of the ZBA application and also the Planning Department staff report. Mrs. Calitro referenced the report dated April 15, 2021 saying this is a request to allow an existing hotel to be used as shelter for the homeless. It has been used in this manner since March 2020 under the authorization of the State. She said the LLC is the contract purchaser of this site. This is a pre-existing non-conforming lot that was approved as a hotel in 1987. It abuts Interstate 84, the Danbury Housing Authority and two commercial uses. This proposal is in accordance with the Governor’s Executive Order which authorizes the City to provide alternate housing and provides the means to fund it through the Federal “CARES” Act. This application proposes a number of conditions that would limit the number of supportive housing rooms in the building, restrict the rooms from having any cooking appliances, and provide assurances that the rooms meet the definition of affordable housing in accordance with Connecticut General Statutes (CGS), Section 8-30g. These conditions are basically deed restrictions that are intended to be recorded on the City Land Records. This facility is the new prototype designed to provide services to address the needs of individuals experiencing homelessness and, in this situation, is a model endorsed by the State. She said the public benefit would be that this facility would provide counseling and supportive services in addition to a place for the homeless to sleep and get a meal. She added that the New Street Shelter will be shut down and the State will provide funding and oversight for this operation, so the City will no longer be entirely responsible for the operation of this shelter.

Mrs. Calitro said the Department is usually not in favor of any use variance as it extends a right to use property that is not extended to other landowners. She added that the Zoning Board of Appeals cannot grant a variance for a use which is inconsistent with the general purpose and intent of the Zoning Regulations. Hotels are permitted in this zone and offer rooms to transient guests who pay for the use of the rooms. Shelters also provide lodging to a transient population; and in this case, will also be required to provide supportive services in other rooms. Neither hotels or motels nor shelters for the homeless are considered dwelling units under the Zoning Regulations. And, the prohibition on cooking facilities within rooms occupied by those experiencing homelessness will ensure that said rooms do not become dwelling units. Based on the declared state of emergency

for people experiencing homelessness, it can be concluded that this use variance would not result in a substantial change to the uses permitted in the CA-80 zone.

The Plan of Conservation & Development (POCD) recommends this property be used for general commercial uses and although a homeless shelter is not specifically listed as a general commercial use, it is similar to a hotel and therefore does not conflict with the property designation on the Land Development Plan map in the POCD. Additionally the POCD provides that the City should expand the supply of affordable housing and one of the proposed conditions of this use variance is that the rooms within this structure meet the definition of affordable housing as stated in CGS Section 8-30g. She said this means that the Commission may reasonably conclude that this proposal is consistent with the POCD. She said this is a win for the City because designating this as affordable housing will increase the number of affordable housing units in the City. She said the Department recommends if they give this a positive recommendation, that they add a condition that the applicant records the deed restrictions (included in the application) on the City Land Records within ten days of approval of the use variance. She also requested that a copy of the staff report be attached to their recommendation, as it is not provided to the ZBA. She said that these two things will ensure that the use variance upholds the integrity of the Zoning Regulations.

Mrs. Hoffstaetter made a motion to give this positive recommendation with the condition that the deed restrictions (as attached to the ZBA application) be recorded on the land records with ten days of the variance approval and a copy of the Department staff report be attached to their written recommendation. Mr. Chiocchio seconded the motion. The reasons given for this motion were that approval of this application as presented will uphold the integrity of the Zoning Regulations based on the following (1) this new “shelter” model will benefit the homeless in additional ways by offering counseling and other support services; (2) the New Street shelter will be permanently closed and the operation of this facility will be handled collaboratively by both the State Department of Housing and various local agencies including the City of Danbury; and (3) this will add to the inventory of affordable housing units being provided by the City. Chairman Finaldi took a roll call vote and this motion was passed unanimously with five ayes (from Mr. Chiocchio, Mrs., Hoffstaetter, Mr. Salvagne, Mr. Urice and Chairman Finaldi.)

Chairman Finaldi reminded the Commission that this is an advisory recommendation and the ZBA will be holding a full public hearing on this application if any of the members want to email the ZBA Chairman with their concerns. Mrs. Calitro pointed out that this referral is not like a Zoning Commission referral as their report does not affect or change the ZBA’s vote in any way, it is meant to be advisory.

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#### NEW BUSINESS:

Petition of Berkley Insurance Company/Encompass Health CT Real Estate LLC to Amend the Master Plan of The Reserve for Tax Assessor’s lot #B15005 (Amend Phase 9B, Non-Residential Uses Not Serving the Immediate Needs of the Residential Development, from

100,000 SF of commercial use to 100,000 SF as a Physical Medical Facility-In-Patient Use.) **MARCH SUBMISSION.** Public hearing scheduled for May 25, 2021. THIS DATE IS SUBJECT TO CHANGE DEPENDING ON CIRCUMSTANCES RELATED TO COVID-19.

Petition of Newtown Road LLC/Maria & Manuel Andre, Whitney Avenue (K12254) for Change of Zone from RA-8 to CG-20. **MARCH SUBMISSION.** Public hearing scheduled for May 25, 2021. THIS DATE IS SUBJECT TO CHANGE DEPENDING ON CIRCUMSTANCES RELATED TO COVID-19.

Chairman Finaldi said these petitions would be on file in the Planning Office and they would discuss them and make their recommendations at a future meeting.

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**OTHER MATTERS:**

Letter from Benjamin Doto PE requesting five year extension on Site Plan/Special Exception SE 753 for JBD Properties LLC, 3-7 Great Plain Road (J10178), originally approved August 3, 2016.

Mrs. Emminger said because this was originally approved by the Commission as a Special Exception, the Commission needs to make a formal motion to approve this extension. There were no questions from the Commission. Mr. Urice made a motion to approve the request for an extension for Special Exception/Site Plan #753. Mr. Chiochio seconded the motion and it was passed unanimously with five ayes.

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Chairman Finaldi said the only item listed under For Reference Only is a floodplain permit.

At 9:05 PM. Mrs. Hoffstaetter made a motion to adjourn. Mr. Salvagne seconded the motion and it was passed unanimously.

Respectfully submitted,

JoAnne V. Read  
Planning Assistant